

	
<b>COUNCIL OF THE EUROPEAN UNION</b>  <b>SECRETARIAT GENERAL</b>	<b>Bruxelles, 1 April 2009</b>
	<b>CM 1234/09</b>
	<b>BMcD</b>
	<b>MAP 001</b>
<b><u>REPORT</u></b>	
From :	Secretariat General
To :	Permanent Representatives Committee
Subject :	Proposal for a Directive on Apple Pie Enhancement (APE)

## INTRODUCTION

1. On 29 February 2009, the Commission presented a proposal for a Directive on Apple Pie Enhancement (APE). It will be recalled that the European Council meeting in December 2008 invited the Commission “to table urgently a proposal, of any description, which offers hope of commanding consensus amongst Member States”.
2. The overall objective of the proposal, which is based on the Treaty provisions on agricultural markets, is to provide food for thought for the European Council in June.
3. The opinion of the European Parliament has been sought. The Parliament’s initial reaction has been negative. It considers that the Parliament itself has sole competence to legislate in matters of Apple Pies. Although such sole competence not specifically

provided for in the Treaties, it has consistently demonstrated its commitment in this area.

4. The Council Legal Service has expressed doubts that there is a sufficient legal base in the Treaty for the proposal. Moreover, it insists that the any criminal sanctions to enforce the application of Apple Pie legislation at national level can only be of a very general nature. It is also examining whether the proposal has any implications for the “Next Generation Networks” currently under consideration in Coreper I.

## STATE OF PLAY

5. The proposal was referred to Coreper II for consideration. Discussion thus far at Coreper has indicated three points of fundamental disagreement:

- First, several delegations (ES, PT, IT, EL, MT, FR, CY) believe that the proposal would fundamentally shift the focus of the European Neighbourhood Policy from the south to the north, where apple growing cultures predominate. They insist that apples are a product more normally associated with northern Member States; whereas light, in a technical rather than a metaphorical sense, is a commodity found in greater abundance in the Mediterranean area. They suggest modifying the proposal to cover Tiramisu and cheese (this last modification was insisted upon by the FR delegation). These delegations also do not wish to see budgetary resources diverted from the alternative initiatives adopted under the French Presidency.

- Second, several delegations (“the usual suspects”) challenge the Commission’s right of initiative in this area. They insist that any attempt to take initiatives in this sensitive area is contrary to the principle of subsidiarity.

- Third, one delegation (UK) insists, as a first step, on receiving a detailed financial fiche from the Commission as regards APE. It regards this issue as a national competence and insists that funding for apples, or indeed any food product, must be sourced from within the margin of Heading 2. The delegation opposed to the Commission’s proposal insists on its right to continue, on a national basis, to decide that all measures and quantities for APE be in ounces and pints.

6. Several Member States have stressed the international dimension and in particular the importance of a coherent approach with NATO. These delegations (UK, CZ, PL) would like to see the term “Apple Pie” replaced by the term “American Pie”. One delegation has suggested as an alternative the inclusion in a new preambular paragraph of the phrase “as American as Apple Pie”. In the context of an overall agreement and in a spirit of compromise, these delegations have indicated that they may, as a fallback, be willing to consider the formulation “Blueberry Pie”.
7. Several other delegations insist that not sufficient attention has been paid to the capacity of the EU to develop proposals which are “Pie in the Sky”. They consider the terrestrial and worldly nature of the proposal currently on the table to be unduly realistic and sensible.

8. FR has entered a study reserve. It is reflecting on whether the effect of combining the two distinct elements in the Commission's proposal could be to "mélanger les pommes et les poires".
9. The Commission is maintaining its original proposal which it considers to be the apple of its eye. It believes that a proposal a day will keep the European Parliament away. Moreover it believes that the alternative formulations suggested would run the risk of upsetting the apple cart.
10. Two delegations (EL, CY) also maintain a linguistic reserve. They insist that the Greek language version of the new Programme should refer to "Apple π".